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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/514,033	02/25/2000	Donald L. Brodigan	1589 (USW0563PUS)	7568

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QWEST COMMUNICATIONS INTERNATIONAL INC  
LAW DEPT INTELLECTUAL PROPERTY GROUP  
1801 CALIFORNIA STREET, SUITE 3800  
DENVER, CO 80202

EXAMINER
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SHANG, ANNAN Q

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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02/02/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/514,033

Applicant(s)

BRODIGAN ET AL.

Examiner

Annan Q. Shang

Art Unit

2623

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 10 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
CHRIS KELLEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

Continuation of 11. does NOT place the application in condition for allowance because: With respect to claim 1-11 rejected under 103(a) as being unpatentable over Pinder et al (5,742,677) in view of Anderson (6,219,042), applicant discusses the claimed invention and argues that, "There is no motivation to combine Pinder and Anderson..." that "Pinder has significant deficiencies" that "...deficiencies are not overcome by Anderson..." that "...Pinder does not suggest the claimed private data packet containing application interface information for the service provider and containing the service provider address..." (see page labeled 2+ of Applicant's Remarks).

In response, Examiner disagrees. Examiner notes applicant's arguments, how Pinder teaches sending a private data packet (Messages which includes a menu of address, logo and graphics data and the like) from the SP or IP-14, over the network (WAN or Internet) and through the broadband digital terminal (fig.1 and 2C, IDC-12) to the set top box (HCT or TU-16), the packet containing application interface information (a menu of address, logo and graphics data and the like) for the service provider and containing the service provider address (col.4, line 43-col.5, line 29). The messages are private data packet which includes the various listing above that enables the HCT or TU to interact to established an impulse pay-per-view communication path between the set top box (HCT or TU) and the service provider (IP-14) based upon the address to allow interactive programming using the application interface information between the service provider and the set top box to personalize the broadcast programming, where a virtual channel or path is established between the IP-14 and TU or HCT-16 using the ATM network (col.4, line 43-col.5, line 36 and col.9, line 66-col.10, line 35). Pinder fails to explicitly teach that the messages or Menu includes video. However, in the same field of endeavor, Anderson teaches WebTV Server 68 and other remote servers which supports WebTV Internet access terminal 10 (figs.2-3,5,7 and 9, col.4, lines 10-44 and col.5, line 1-32) where Terminal 10 receives and displays an application interface information, a web browser with video. Hence it would have been obvious to one of ordinary skilled artisan to incorporate the teaching of Anderson into the system of Pinder to provide additional enhancement to the display terminal that entices the user to order IPPV video. Hence applicant's arguments are not persuasive, the 103(a) rejection of claims 1-11, is proper, meets all the claimed limitations and maintained. The finality of the last office action is hereby maintained.